

SUPERIOR COURT IN THE STATE OF CALIFORNIA  
COUNTY OF YOLO

PEOPLE OF THE STATE OF CALIFORNIA  
Plaintiff,

Case CR-F -08-0003355

vs.

MINUTE ORDER

MARCO ANTONIO TOPETE  
Defendant.

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Judge: PAUL K. RICHARDSON  
Clerk: JENNIFER HICKS  
Reporter: KATY STEVENS  
Date: AUGUST 28, 2009

HEARING: Defendant's motion to continue Jury Trial, People's motion to compel a handwriting exemplar from defendant, discussion of proposed jury questionnaire, discussion of future court dates.

Counsel for the People: JEFF REISIG, District Attorney  
GARRETT HAMILTON, Deputy District Attorney

Counsel for Defendant(s): HAYES GABLE  
THOMAS PURTELL

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Counsel and defendant present in open court and ready to proceed.

The Court disclosed that as part of the application process for appointment to the bench, the Court sought letters of support from individuals and organizations throughout the Yolo county and greater Sacramento area. Among those individuals from whom the Court sought letters were Yolo County Sheriff Ed Prieto and District Attorney Jeff Reisig. The Court did not know whether letters were ever sent from any of these individuals on his behalf. A letter was sent on the Court's behalf from the Yolo County Public Defender Barry Melton. The Court believes as well, that a letter may have been requested from Chief Deputy Public Defender Jesse Morris but the Court does not know if a letter was ever sent. Among the organizations that sent a letter on the Court's behalf to the governor was the Yolo County Deputy Sheriff's Association.

The Court and counsel discussed the People's motion to compel a handwriting exemplar from the defendant. The Court heard argument from both sides.

Counsel for the People, Garrett Hamilton stated that he could provide handwriting examples to the court at a later date, but was not prepared to provide them today.

The Court agreed that the issue should be addressed when counsel for the People are able to provide the handwriting examples.

The Court asked both counsel if they were prepared to discuss issues pertaining to the proposed jury questionnaire.

Both counsel stated that they were not prepared to address those issues today, but if the Court would allow a brief recess, the issues could be addressed.

The Court addressed defense counsel's motion to seal the declaration of Mary Greenberg.

After hearing argument from both counsel, the Court granted the motion and ordered the declaration of Mary Greenberg sealed.

The Court then addressed defense counsel's motion to continue the Jury Trial.

Counsel for the defendant, Hayes Gable stated his reason for the motion on the record.

The Court asked Mr. Gable if his intention was to continue the trial to a date in 2011.

Mr. Gable stated that he would be asking for a continuance until June of 2010.

Counsel for the People, Mr. Hamilton argued that there were still (3) three months to the current trial date, and that an additional (6) six to (7) seven months would be incomprehensible. Counsel for the People also stated that the Court should set a series of status conferences, but not to continue the trial date at this point.

Counsel for the defendant, Mr. Gable stated that he will be beginning another capital case in Sacramento shortly and that case could interfere with the trial date currently set in this case.

Counsel for the People requested that the jury trial be continued to January 2010 to accommodate defense counsel.

The Court granted defense counsel's motion for a continuance, in part. The Jury Trial will be set to begin May 17, 2010. The Court stated that the investigation cited by Mary Greenberg in her declaration where areas of inquiry were found to be consistent with the American Bar Association's guidelines for proper investigation of a capital case and though the Court had concerns about the lack of specificity for tasks and timelines for completion of those tasks, the Court found good cause for a continuance.

The Court inquired of both counsel what the time estimate for the trial would be.

Counsel for the People estimated (5) five weeks including both the guilt and penalty phases.

The Court was inclined to continue with the previous orders made allowing (1) one week for in limine motions and (2) two weeks for jury selection.

The Court suggested that both counsel come up with an outline of scheduling between now and the trial date of May 17, 2010, and have it ready for the Court's review at the next court date. The Court asked that the outline also include when and where any subsequent court dates would take place. The Court would be inclined to set reviews every (6) six to (8) eight weeks.

Defense counsel, Mr. Gable stated that they intend to file a motion for sequestered voir dire, a 995 motion, and a change of venue motion.

The Court asked both counsel to map out how long they foresee each hearing or motion to take and what they believe the filing dates for the motions would be.

Defense counsel, Mr. Purtell inquired of the Court if the intention would be to begin in limine motions on May 17, 2010.

The Court stated that was the intention.

Defense counsel, Mr. Purtell asked if the jury questionnaire would be discussed today. The Court stated that if parties were ready, the matter could be discussed today.

The Court set the next court date for November 6, 2009 at 8:30 am in Department 9. The following issues would be discussed on that date: People's motion to compel a handwriting exemplar from defendant, proposed jury questionnaire, 995 motion, discussion of outline of future court dates and motions.

The Court set a briefing schedule for defense counsel's 995 motion.

Counsel for the defendant, Mr. Purtell stated that a previous order was made that allowed the defendant to be unrestrained and in civilian clothing for court dates. Mr. Purtell asked the Court to re-consider and follow that prior order.

Counsel for the People asked that defense counsel file a motion to that affect so that the People could make a written response.

The Court set a briefing schedule for that motion as well which will also be heard on November 6, 2009.

The Court inquired if counsel wished to discuss the jury questionnaire now, or at the next court date.

Counsel for the People, Mr. Hamilton asked that it be discussed at the next court date.

The Court restated the next court date of November 6, 2009 at 8:30 am in Department 9.

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Court adjourned.

The defendant remained in the custody of the sheriff with no bail set, the parole hold remains in effect.

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